

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

No. 04-10644-MEL

LINDA MELLEN,
Plaintiff,

v.

TRUSTEES OF BOSTON
UNIVERSITY and FRANCES
A. DROLETTE,
Defendants.

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (LIABILITY)

In accordance with Fed.R.Civ.P., R. 56(a), (c), and Local Rule 56.1, the plaintiff Linda Mellen moves for the entry of summary judgment against the defendants, jointly and severally, on the issue of liability.

In support of her Motion, plaintiff states that upon the undisputed material facts, defendants are jointly and severally liable for their interference with and breach of her substantive rights under the Family and Medical Leave Act, 29 U.S.C. s. 2611 *et seq.*, and/or Massachusetts Small Necessities Leave Act, 149, s. 52D. In sum, defendants wrongfully terminated plaintiff's 26+ year career at the defendant University because she – defendants contend – missed a single day of work. In addition, defendants are liable to the plaintiff Mellen for retaliating and/or discriminating against her because of her assertion of family leave rights.

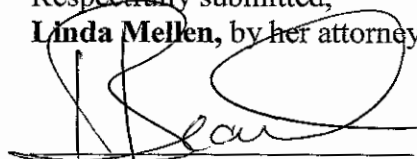
For these reasons, and in light of the accompanying Statement of Undisputed Material Facts, supporting Memorandum of Law, and Exhibits at Tabs 1-21, plaintiff requests the entry of judgment in her favor.¹

In addition, plaintiff requests the Court's leave to submit evidence of her right to reinstatement and damages.

REQUEST FOR ORAL ARGUMENT

In accordance with LR, D.Mass., Rule 7.1(D), the plaintiff Linda Mellen requests oral argument before the Court.

Respectfully submitted,
Linda Mellen, by her attorney,


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August 24, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail (by hand).

on AUGUST 24 2005

Signed: 

MESSANGER

¹ For the Court's convenience and reference, a Schedule is attached to this Motion, identifying by number plaintiff's supporting Exhibits at Tabs 1-21.

As the Court will note, nearly all of the facts that plaintiff asserts as undisputed arise from the defendants' own admissions and deposition testimony.

**SCHEDULE OF EXHIBITS – PLAINTIFF’S MOTION FOR SUMMARY
JUDGMENT**

Exhibit 1	Complaint
2	Defendants’ Amended Answer
3	Deposition of George T. Snowden, BU’s Director of Personnel
4	Drolette’s November 20, 2003 termination letter
5	Deposition of Dr. Robert Meenan, Dean, BU School of Public Health
6	Deposition of defendant Drolette, Associate Dean, SPH
7	Affidavit of plaintiff Mellen
8	Deposition of Dzidra Knecht, former Associate Dean, SPH
9	Plaintiff’s family leave application
10	BU’s approval of plaintiff’s family leave request
11	Calendar
12	Plaintiff’s August 2003 medical submission
13	Snowden’s August 21, 2003 notes
14	Drolette’s October 24, 2003 letter of reprimand
15	Attorney Beach’s November 20, 2003 letter
16	Plaintiff’s November 19, 2003 letter
17	BU Personnel Policy Manual
18	Snowden’s November 19, 2003 notes
19	Deposition of BU’s Eileen Dennis
20	Massachusetts Attorney General Advisory Opinion 98/1
21	Attorney General’s private right-to-sue letter to plaintiff